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1 The above-entitled matter came on for oral hearing on Wednesday,
2 March 18, 2009, at The U.S. Patent and Trademark Office, 600 Dulany
3 Street, Alexandria, Virginia, before Victor Lindsay, Notary Public.

4
5 MS. BOBO-ALLEN: Calendar No. 23, Appeal No. 2009-0633. Mr.
6 Greene.

7 MR. GREENE: Good morning.

8 JUDGE BLANKENSHIP: Good morning, Mr. Greene. You have 20
9 minutes, and you can begin whenever you like.

10 MR. GREENE: Great. Thank you very much.

11 Good morning, Your Honors. The reference relied on by the
12 Examiner, Burfeind, does not anticipate the independent claims at least
13 because Burfeind does not use a device type to identify a user as recited in
14 the independent claims. Rather, most Burfeind does the opposite. It, it uses
15 a user to identify a device type.

16 In particular, with reference to figure 4 of Burfeind, Burfeind
17 describes a system that generates personalized weather messages for a user.
18 To that end, Burfeind collects personal preference information about a
19 subscriber or user and stores that in the personal preference database for 26.
20 Those personal preferences include items such as activities the user is going
21 to engage in, the location of those activities, calendar information about
22 when the user is going to engage in those activities and delivery devices to
23 which the personalized weather messages should be delivered to the user.

24 The system in Burfeind also collects weather information and stores
25 that in the databases such as the radar database, satellite database, gridded

1 database and the raw weather database. The personal weather text generator
2 470 then accesses these various databases to generate the personalized
3 weather messages for the user. For example, the personalized weather text
4 generator accesses the activities, locations of the activities and the calendar
5 information and the weather information to generate appropriate messages
6 regarding the weather for the, the activities the user is going to be engaged
7 in.

8 After that message is generated, the multimedia device interface 480
9 accesses the delivery devices listed in the personal preferences so that it can
10 format the message to those devices, and then it delivers the formatted
11 messages to the devices. The Examiner has, has apparently equated these
12 personal preferences and the list of delivery devices to the recited targeting
13 roles and the list of the devices in the personal preferences to the recited
14 target type of access device.

15 JUDGE LUCAS: Okay. I, I am surprised, Mr. Greene, considering
16 column 5 where it talks about different types of delivery through different
17 output media, pagers, text to voice, PDAs, computers, e-mails, display
18 monitors, blah blah blah, that you say that there is no customization for the
19 different types of devices. I, I wonder how you're reading that.

20 MR. GREENE: I -- if I did say there is no customization for the
21 different types of devices, then I misspoke. As I indicated when, when I was
22 describing Burfeind's system, it does take the message, the personal weather
23 text generator, and then customizes it for the particular delivery type of
24 device, and as you noted he -- I think he does provide examples. I don't
25 have them at the tip of my tongue right now about how it could be, you

1 know, in voice and various other formats depending on the devices, but I,
2 but I think that's somewhat orthogonal to our point of what, what Burfeind
3 isn't showing, and that is he's not using those devices in that personal
4 preference database to identify a user or a subset of users as we've indicated
5 in our claim.

6 In our, in our claim we have the, the targeting rules that designate a
7 target type of access device, and those targeting rules are then applied to
8 context information to identify a subset of, of the one or more online users.
9 In Burfeind instead, you have the user who is associated with the personal
10 preferences and, and so at most I would say the user is used to look up those
11 personal preferences which indicate the device that we're going to format the
12 message for. The device isn't used to first identify the user which I
13 believe -- which is the, the point we've been trying to make and that I was
14 trying --

15 JUDGE LUCAS: Could you --

16 MR. GREENE: -- to go through now. Does that --

17 JUDGE LUCAS: -- favor me by pointing out where in the claim you
18 use the word first?

19 MR. GREENE: First?

20 JUDGE LUCAS: Yes. You just said that you first use the targeting
21 rules.

22 MR. GREENE: Okay. We -- well, I don't believe we used the word
23 first, granted. We have the targeting rules that designate a target type of
24 access device. We then -- well, we acquire context information regarding
25 the one or more online users. That context information indicates at least a --

1 at least one of a client type of access device. The targeting rules are applied
2 to that context information to identify a subset of the one or more online
3 users.

4 I mean we don't see that process being done in Burfeind. Burfeind
5 doesn't have a set of targeting rules with target types of devices, contact
6 information that, that indicates a client type of access device and then
7 applying those targeting rules to the context information to identify a subset
8 of the users. Burfeind doesn't describe using access device or targeting rules
9 to identify the user. Rather, for a given user, the personal preferences are
10 accessed, the message is generated, and then we look up the device that,
11 that's associated with the user. So the device in the personal preferences is
12 never being used to identify the user.

13 Or to, to back up even further, those personal preferences aren't even
14 being used to identify the user. If we, if we agree that we can equate those
15 personal preferences to the targeting rules, those personal preferences are not
16 being applied to context information to identify the user. Rather, for a given
17 user, those personal preferences are simply looked up which would, would
18 even lead me to, to a second point. I mean Burfeind only includes one kind
19 of or one indication or designation of the types of devices in the personal
20 preferences, so even if we equate the personal preferences to the targeting
21 rules, we then wouldn't have context information that indicates a client type
22 of device. Or conversely if we equate that indication or designation of the
23 types of, of devices in the personal preferences to the context information
24 and client type of access device, then I don't believe Burfeind has targeting
25 rules that designate a target type of access device. There is only one

1 indication or designation of, of devices in Burfeind, whereas we have two
2 recited in our, our claim also.

3 Have I, have I answered your question?

4 JUDGE LUCAS: Continue, please.

5 MR. GREENE: Referring back again to, to figure 4 and the, the point
6 that I was originally making which I've touched on is that we -- that the
7 personal weather text generator accesses these personal preferences for a
8 given user, develops the message and then it -- or then it accesses the
9 devices for that user to format the message for that user. So it's the user
10 that's being relied upon to figure out what the appropriate delivery device is.
11 We're not doing it the other way around where we're using those delivery
12 devices to figure out the appropriate user to deliver the message to. And
13 because those personal preferences aren't being used or applied to any
14 context information to identify a subset of the online users as we've recited
15 in our independent claims, Burfeind doesn't anticipate our independent
16 claims.

17 And with that, if there are no questions, those are the -- that's the
18 salient points we wanted to make.

19 JUDGE LUCAS: No. Thank you.

20 JUDGE BLANKENSHIP: All right. Thank you.

21 (Whereupon, the hearing concluded on March 18, 2009.)